

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

UNITED STATES OF AMERICA,

Crim. No. 09-239 (JRT/FLN)

Plaintiff,

v.

ORDER

BILLY RAY WILEY,

Defendant.

Charles J. Kovats, Jr., Assistant United States Attorney, **UNITED STATES ATTORNEY'S OFFICE** 600 United States Courthouse, 300 South 4th Street, Minneapolis, MN 55415, for plaintiff;

Billy Ray Wiley, Sherburne County Jail, 13880 Highway 10, Elk River, MN 55330, *pro se* defendant.

Derk K. Schwieger, **ATTORNEY AT LAW**, 7800 Metro Parkway, Suite 220, Bloomington, MN 55425, as standby counsel for defendant.

Pro se defendant Billy Ray Wiley ("Wiley") has brought a renewed motion to dismiss, and various requests for the production of evidence. (Docket Nos. 75, 84, 88, 89.) The Court has carefully reviewed all of Wiley's submissions and finds no basis on which to grant the relief requested.

I. MOTION TO DISMISS

Wiley brings a "Motion to Dismiss" seeking to suppress all evidence seized from a residence located at 2029 Willow Avenue, Minneapolis, MN. On October 15, 2009, United States Magistrate Judge Franklin L. Noel issued a report and recommendation

(“Report”) determining that although the warrant was lacking probable cause, the officers relied on the warrant in good faith. (Docket No. 24.) On December 15, 2009, this Court adopted the findings and conclusions contained in the Report, and denied defendant’s motion to suppress. (Docket No. 37.) On March 17, 2010, this Court denied defendant’s motion to reconsider. (Docket No. 58.) Wiley filed the present motion on September 8, 2010, after he waived his right to counsel and elected to proceed to trial *pro se*. (Docket Nos. 74, 75.) Because the substance of the instant motion has been considered and ruled on twice, the Court will not grant the motion when no new facts or law have been raised.

II. REQUESTS FOR PRODUCTION OF EVIDENCE

Wiley filed several requests, generally seeking production of various documents he alleges are in the possession of his stand-by counsel or the government. Specifically, Wiley asks for:

- A tape in “my evidence.” (Docket No. 88.)
- Color pictures of the house at Willow Street. (Docket No. 88.)
- Access to “any report on all police (witness) against the defense.” (Docket No. 84.)
- A copy of an investigation he alleges is ongoing. (Docket No. 83.)
- A copy of any investigation in the past by any officer the government plans to call. (Docket No. 83.)

After an inquiry by the Court, Assistant United States Attorney Charles Kovats, and stand-by counsel Derk Schweiger, provided the Court with a list of all documents served on Wiley. These documents include:

- Copies of photographs taken during the investigation.
- Grand jury testimony of Bureau of Alcohol, Tobacco and Firearms Special Agent Terence Horenburg.
- A full set of the exhibits that the government will use in its case-in-chief.
- One audio cassette tape entitled “MDP 09054841 STMT W/WILEY.”
- One audio cassette tape entitled “U.S. v. Wiley 000051.”
- One CD/DVD entitled “U.S. v. Billy Ray Wiley 09-239 (JRT/FLN) Bates No. 00051.”
- One CD/DVD entitled “U.S. v. Wiley 09-239 (JRT/FLN) COPY PHOTOS.”

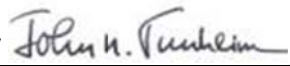
In the Court’s view, Wiley has received all relevant documents to his case, including those he has specifically requested, and has not been hindered or prejudiced by any actions of counsel.

ORDER

Based on defendant’s request, and all the files, records, and proceedings herein, **IT IS HEREBY ORDERED** that:

1. Defendant ’s motion to dismiss [Docket No. 75] is **DENIED**.
2. Defendant’s requests for production of evidence [Docket Nos. 84, 88, 89] are **DENIED**.

DATED: December 21, 2010
at Minneapolis, Minnesota.

s/ 

JOHN R. TUNHEIM
United States District Judge